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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,203	01/06/2004	Rodney Bailey	MIC-102 (P50-0101)	2627

7590

09/29/2005

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EXAMINER

KNABLE, GEOFFREY L

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/752,203

Applicant(s)

BAILEY ET AL.

Examiner

Geoffrey L. Knable

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

1. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the preamble refers to a method of retreading whereas the body of the claim only refers to a single step of spraying, it therefore not being clear what the scope of this claim is. Assuming the claim is limited to a process of retreading (the claim being read this way for purposes of this office action), it is suggested that the claim be recast for example in Jepson form (e.g. "In a method for retreading..., the improvement comprising...") to clarify that the claimed spraying is in the context of a retreading process.

In claim 1, lines 2-3 are grammatically awkward and thereby confusing in terms of what is being sprayed - in particular, it is noted that the reference to "comprising a curing accelerator in a thermoplastic matrix" in claim 1 could be read as either referring to what is being sprayed (as apparently intended) or as what the outer surface of the carcass comprises. Clarification is required.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carver (US 3,236,709) or Nowak (US 2,976,910) taken in view of DE 19754341 to Menting et al. and Cahill (US 2,758,037).

Carver discloses a tire retreading process in which the tire carcass outer surface is first coated with vulcanizing accelerators (e.g. col. 6, lines 10-15) prior to the application of the cushion gum and tread. Similarly, Nowak discloses a tire retreading process in which the tire carcass is first coated with a solution containing the vulcanizing accelerators (e.g. col. 3, line 73 - col. 4, line 6) prior to applying the gum and tread (the accelerators not being provided within the gum to avoid premature vulcanization - e.g. col. 3, lines 1-12). These references therefore suggest a process as in claim 1 except that they do not suggest the accelerator being in a thermoplastic matrix and although the suggestion is for coating with a solution, they do not explicitly suggest spraying.

DE '341 to Menting et al. discloses encapsulating rubber additives such as vulcanization accelerators within a thermoplastic material for use in preparing rubber compositions for use in manufacturing tires - note the abstract (as well as English language equivalent US 2003/0165682 to Menting et al., a cursory comparison suggesting that this is apparently the same disclosure and thus has been read

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effectively as a translation of DE '341). This encapsulation is said to provide various advantages including increasing the storability and durability of the additives themselves - e.g. note paragraphs [0009] and [0032] of English equivalent US '682 to Menting. To provide the accelerator that is coated on the tire in either of the primary references in a form where it is encapsulated within a thermoplastic would therefore have been obvious with an expectation of improving the storability and durability of the accelerator.

As to spraying the accelerator, as already noted, both primary references suggest coating the tire casing with the accelerator, apparently in a solution but do not expressly describe how this coating is effected. Coating a surface by spraying is however taken to be extremely well known per se - further, in this art, it is also known to be suitable and effective to coat a tire surface in a retreading process using a spray process - Cahill is exemplary. To provide the coating by spraying would therefore have been obvious for only the expected results.

As to claim 2, DE '341 to Menting et al. suggests materials consistent with that claimed - e.g. note paragraph [0027] of the English equivalent US '682 to Menting. As to claim 3, the ordinary artisan, recognizing the particular requirements of the vulcanization process conditions contemplated, would have been expected to have been able to select a suitable and effective accelerator type (the knowledge and skill level with respect to the vulcanization process being considered to be extremely high), it further being noted that in light of for example DE '341, the claimed accelerators represent well known accelerators used in the tire art - e.g. note paragraphs [0021] - [0022] of the English equivalent US '682 to Menting - selection of a suitable accelerator

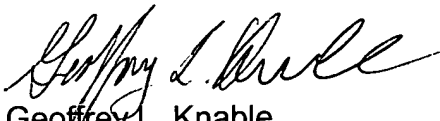
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including use of the claimed types would therefore have been obvious for only the expected results.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey L. Knable whose telephone number is 571-272-1220. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on 571-272-1171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Geoffrey L. Knable
Primary Examiner
Art Unit 1733

G. Knable
September 27, 2005